

EXHIBIT A

8AKMKARS

Sentence

1 UNITED STATES DISTRICT COURT
 2 SOUTHERN DISTRICT OF NEW YORK

DOC #

74

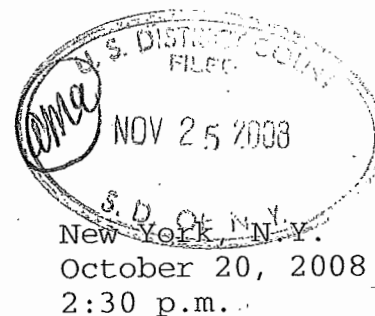
3 UNITED STATES OF AMERICA,
 4

v.

07 Cr. 541 (RPP)

5 DANIEL B. KARRON,
 6

Defendant.
 7 -----x



8
 9
 10 Before:

11 HON. ROBERT P. PATTERSON, JR.,
 12

District Judge
 13

14 APPEARANCES

15 MICHAEL J. GARCIA

United States Attorney for the
 16 Southern District of New York

STEVE KWOK

17 CHRISTIAN EVERDELL

Assistant United States Attorneys
 18

RUBINSTEIN & COROZZO

Attorneys for Defendant

19 BY: RONALD RUBINSTEIN
 20
 21
 22

23 ALSO PRESENT: KIRK YAMATANI
 RACHEL ONDRIK
 24
 25

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1 be hanging. I have never thought I would be impaled.

2 I'm redundant and I'm repetitive and I forget what I
3 say, and I'm a disaster. I really am. I will be late for my
4 own funeral. If I do something too fast, I always forget
5 something, screw something up.

6 I apologize to the Court for keeping you this late and
7 for everything else that I've done in the past.

8 Thank you, your Honor.

9 THE COURT: Thank you.

10 As I said, under the guidelines, the Court's findings
11 are that the base offense level for this violation for Title 18
12 Section 666 is found under 2B1.1. The base offense level under
13 subsection (a)(2) of that guidelines is 6. Because more than
14 \$120,000 was lost through inappropriate expenses, 10 points are
15 added. Making that decision the Court looked to guideline note
16 which applies to 2F. The guideline note that applies to grants
17 is federal grant under guideline commentary (f)(2)(ii). At
18 that guideline of 16, the guidelines calls for a sentence of 21
19 to 27 months in prison.

20 Turning to 18 3553(a) of Title 18, the Court, as the
21 Court must, consider any guidelines sentence as a result of the
22 Booker decision, the Court must take into account the history
23 and circumstances of the offense, history and characteristics
24 of the defendant. The defendant here has no prior record.

25 And addressing the Court he said that he's never

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1 before had the responsibility before of handling a federal
2 grant and dealt with contracts in the past. Those are
3 contracts, I gather, to perform specific services for a fee,
4 which is a little different than a federal grant. Both of
5 those circumstances relate to the circumstances of the offense
6 and the history and characteristics of the defendant.

7 But the Court must also impose a sentence which is
8 sufficient but not greater than necessary to comply with the
9 purposes set forth in subparagraph 2 of 3553(a), and that is
10 the need for the sentence imposed to reflect the seriousness of
11 the offense, to promote respect for the law, and to provide a
12 just punishment for the offense; B, to afford adequate
13 deterrence to criminal conduct of other persons, and to protect
14 the public from further crimes of the defendant -- C, to
15 protect the public from further crimes of the defendant; and,
16 D, to provide the defendant with needed educational and
17 vocational training, medical care, or other correctional
18 treatment in the most effective manner.

19 I don't believe that it would be necessary to protect
20 the public from further crimes of the defendant that would
21 serve to ameliorate the penalty imposed under the guidelines.

22 I have some difficulty with this case because
23 delineating the intent of the defendant is difficult for me.
24 It is true that the loss is at least \$120,000, but the
25 defendant's intent in causing that loss is something that the

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1 Court has been concerned about.

2 And, on the other hand, the Court has to consider a
3 sentence that affords adequate deterrence to criminal conduct
4 and the government gives these grants, they are placing a lot
5 of trust in the grantee. It's important that the grantee not
6 intentionally misapply the funds.

7 It's clear to me that there was an intentional
8 misapplication of the rent money. The defendant was told time
9 and time again not to use the rent funds for rent or for
10 utilities. That's what the record here substantiates. That's
11 a lesser sum than the sum found in the guidelines.

12 Under the circumstances, it seems to me as the first
13 offense that the Court should not impose a sentence that is
14 heavy as the guideline and, yet, impose a sentence that
15 provides deterrence to other people. I am going to vary the
16 sentence pursuant to Section 3553(a).

17 I am going to impose a sentence of 15 months under
18 zone C of the guidelines, one half of the term to be served in
19 prison and one half of home confinement, eight months'
20 imprisonment, and the remainder in home confinement.

21 The term of supervised release is three years,
22 restitution in the amount of \$120,000. That's required, I
23 guess. And a special assessment of \$100. I think I'm right on
24 the split sentence, that if it falls in the 12 category, I can
25 give the split sentence.

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1 MR. KWOK: Section 5C1.1, section D.

2 MR. EVERDELL: Yes, your Honor, I believe it is
3 correct. It has to be a one-for-one ratio.

4 THE COURT: One has to be imprisonment, the other has
5 to be home confinement.

6 MR. EVERDELL: That's correct.

7 THE COURT: That's to enable defendant to take care of
8 his mother as soon as possible.

9 Three years of supervised release. There will also be
10 a \$100 assessment as provided by the law. The conditions of
11 supervised release are: The defendant shall not commit another
12 federal, state, or local crime; shall not illegally possess a
13 controlled substance; shall not possess a firearm or
14 destructive device. Mandatory drug testing is suspended due to
15 the Court's determination that defendant poses little risk of
16 future substance abuse. The defendant shall cooperate in the
17 collection of DNA as directed by the probation officer.

18 Standard conditions of supervision 1 through 13 will
19 also apply with the following special conditions: Defendant
20 shall provide the probation officer with access to any
21 requested financial information; defendant shall not incur new
22 credit charges or open additional lines of credit without
23 approval of the probation officer unless the defendant is in
24 compliance with the installment schedule, installment payment
25 schedule.

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1 Defendant is to report to the nearest probation office
2 within 72 hours of release from custody and be supervised in
3 the district of his residence. \$100 will be due immediately.
4 That's the special assessment. The restitution shall be in the
5 amount of \$120,000, payable to the clerk of the United States
6 District Court for disbursement to Julie Weiblinger, U.S.
7 Department of Commerce, National Institute of Standards and
8 Technology, Advanced Technology Program Receivables Group, 100
9 Bureau Drive, Mail Stop 1624, Gaithersburg, Maryland
10 20899-1624.

11 The restitution shall be paid in monthly installments
12 of 10 percent of gross monthly income over the period of
13 supervision to commence 30 days after the date of release from
14 custody, and the defendant shall notify the U.S. Attorney's
15 Office for this district within 30 days of any change of name
16 or residence address that occurs while any portion of the
17 restitution remains unpaid.

18 If the defendant is engaged in BOP non-UNICOR program,
19 the defendant shall pay \$25 per quarter towards the
20 restitution. However, if the defendant participates in the
21 BOP's UNICOR program as a grade 1 through 4, the defendant
22 shall pay 50 percent of her UNICOR earnings to any financial
23 penalties, consistent with Bureau of Prisons regulations of 28
24 CFI Section 45.11. The factors in 18 United States Code
25 Section 3664(f)(2) were considered in formulating the payment

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1 schedule.

2 There will be no fine in this case in view of the
3 restitution requirements.

4 I gather you want to have a voluntary surrender,
5 Mr. Rubinstein?

6 MR. RUBINSTEIN: Yes, your Honor. I was wondering, if
7 it's possible, I don't know how it works. Is it possible to do
8 the home confinement first and then the incarceration
9 afterwards? So this way if they can get his mother home,
10 because her life expectancy isn't that long.

11 THE COURT: It seems to me that it could. I don't see
12 anything under the section that says it couldn't. It certainly
13 surprises me.

14 MR. EVERDELL: I'm sorry to interrupt, your Honor. I
15 do have a different case with Judge Kaplan where he did allow
16 that very thing to happen. If that precedent counts for
17 anything, I believe there is a precedent in the Southern
18 District for doing this.

19 THE COURT: I am going to do it that way. So the home
20 confinement period will start. You better see that the
21 defendant sees the probation officer in the next 24 hours, Mr.
22 Rubinstein.

23 MR. RUBINSTEIN: Absolutely. I will go there
24 tomorrow.

25 THE COURT: We will make arrangements for home

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1 confinement to start. If you have home confinement, there will
2 have to be a telephone without call forwarding in the residence
3 in which the defendant would be located because they have to
4 know that he's not leaving the premises during the period of
5 home confinement. Home confinement is not to interfere with
6 religious services or employment, but it will require the
7 defendant to be home in the evening and nonworking hours part
8 of the day.

9 MR. RUBINSTEIN: And medical, your Honor?

10 THE COURT: What?

11 MR. RUBINSTEIN: And medical.

12 THE COURT: Of course, he can attend medical
13 appointments for himself and his mother.

14 There will be no call forwarding or call waiting or
15 modem attached to the telephones. It's clear that he is
16 serving his term of home confinement without any further
17 investigation by the probation office.

18 MR. RUBINSTEIN: Your Honor, would your Honor
19 consider -- first, on the restitution, did your Honor say how
20 that's to be paid?

21 THE COURT: Yes, I did. 10 percent of gross pay.

22 MR. RUBINSTEIN: Is that without interest?

23 THE COURT: I leave that to the greater, higher
24 authorities. I believe that interest does run.

25 MR. RUBINSTEIN: Would your Honor --

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1 THE COURT: I believe interest runs. But it can start
2 after the period of incarceration.

3 MR. RUBINSTEIN: Your Honor, I believe that the
4 defendant wishes to appeal this matter. That's what I've been
5 informed. In view of that, I wonder if your Honor will
6 consider releasing him pending the appeal. He is going to be
7 on house arrest for seven and a half -- I'll reserve the right
8 to make that application.

9 THE COURT: He can appeal, but I don't see where you
10 can appeal, but is that beneficial to your situation for me to
11 suspend the imposition of sentence pending the appeal?

12 MR. RUBINSTEIN: I would like to serve the house
13 arrest portion while his mother is alive.

14 THE COURT: I can't break it up, I don't believe,
15 under the statute.

16 MR. RUBINSTEIN: I'll have to consider it, Judge. We
17 will go to probation tomorrow. As far as the house arrest, we
18 don't have a problem with starting that immediately.

19 THE COURT: Make an expedited appeal.

20 MR. RUBINSTEIN: File an expedited appeal?

21 THE COURT: All right.

22 MR. RUBINSTEIN: Thank you very much, your Honor.
23 Good night.

24 MR. KWOK: A few things, your Honor.

25 If the government could request the Court to give an

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1 oral pronouncement of his forfeiture order. There is a
2 forfeiture allegation in the indictment.

3 THE COURT: Is forfeiture required here? I didn't see
4 that in the presentence report.

5 MR. KWOK: It is not reflected in the presentence
6 report, but, as your Honor might recall, there was an order by
7 stipulation between the parties where we seized the proceeds
8 from the sale of defendant's apartment. And so if we could
9 forfeit that in partial satisfaction of the restitution
10 obligation.

11 THE COURT: You can submit a forfeiture order, yes.

12 MR. RUBINSTEIN: The marshals are holding those funds,
13 if that's what the government is talking about.

14 THE COURT: I have to make an order with respect to
15 it. The marshals already have it.

16 MR. KWOK: But the order the Court signed says that
17 the money will be held with the U.S. Marshals pending further
18 order of the Court. We will certainly submit an order to
19 release those funds.

20 THE COURT: So ordered.

21 MR. KWOK: Thank you.

22 Also, just one last matter. Because this is a second
23 superseding indictment, the government moves that the
24 underlying indictments be dismissed.

25 THE COURT: That's granted. I am sure there is no

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1 opposition to that.

2 MR. RUBINSTEIN: No opposition, your Honor.

3 THE COURT: You have ten days to file a notice of
4 appeal, Dr. Karron. All you have to do is write a letter to
5 the Court, United States District Court, 500 Pearl Street, New
6 York, New York, and say, I wish to appeal and that will
7 preserve your appeal, but you have to do it within the ten-day
8 period because, otherwise, the Second Circuit will say you
9 waived your right to appeal by not filing that letter within
10 the ten-day period.

11 You understand me? You're nodding yes.

12 If you want to appeal, you just write the letter
13 within ten days and that preserves your right. If you don't
14 write it in the ten-day period, you lose your right to appeal.
15 If you don't have funds for an appeal, the Court of Appeals
16 will decide on it for you to handle your appeal free of charge.

17 MR. RUBINSTEIN: What they do, Judge, in reality, is,
18 they assign trial counsel free of charge. I had that
19 experience with Judge Kaplan, who was mentioned once today
20 already.

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